

4. The Civil Action is one of which this Court has diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1332 and removal jurisdiction pursuant to 28 U.S.C. § 1441 in that:

- (a) W&S, both at the time of filing of the Civil Action and as of the date of filing of this Notice, was and is a corporate citizen of the State of Ohio in that it is and was incorporated in the State of Ohio, with its principal place of business in the State of Ohio.
- (b) Marshall, both at the time of filing of the Civil Action and as of the date of filing this Notice, was and is a citizen of the State of Tennessee.
- (c) Diversity of citizenship exists between all parties properly joined in that they are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.¹
- (d) This action is within the original jurisdiction of the Court pursuant to the provisions of 28 U.S.C. § 1332.

5. W&S has filed this Notice prior to the expiration of thirty (30) days following its receipt of a copy of the Complaint.

6. W&S will give written notice to plaintiff and will file a Notice of Filing of Notice of Removal with the Clerk of the Chancery Court of Sullivan County, Tennessee. W&S attaches a copy of the Notice of Filing of Notice of Removal as Exhibit C.

¹ The documents attached as Exhibit B are explanation of benefit forms that W&S sent Marshall pertaining to claims under the Policy at issue in this case. The unpaid portion of these claims totals in excess of \$100,000.00, thus meeting the amount in controversy requirement under 28 U.S.C. § 1332.

WHEREFORE, defendant, W&S prays that the Civil Action now pending against it in the Chancery Court of Sullivan County, Tennessee, be removed therefrom to this Court.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been served upon the following via prepaid U.S. Mail this 30 day of March, 2009.

R. Wayne Culbertson
119 West Market Street
Kingsport, TN 37660



S. Russell Headrick